

Appendix 3

Key Actions

Action 1: Use incentives and voluntary partnerships more widely to encourage better environmental performance.

Objective:

We will work with interested parties to identify, test, and evaluate incentives that can be used to encourage better environmental performance by a wide range of businesses and other organizations. We'll also use voluntary partnership approaches to address unsolved problems and/or unique challenges facing communities or specific industry sectors.

Background:

Our program and regional offices are already developing ways to promote stewardship. Experimental programs, such as Project XL, and partnership programs, such as Energy Star, have used incentives to encourage organizations to make environmental improvements. Additionally, we have started to use incentives to enhance our regulatory programs.

Our rapidly-growing partnership programs continue to show strong promise for effecting stewardship. These programs typically improve efficiency, cut waste, and conserve resources, lowering costs and yielding environmental benefits. As such, we've used partnership programs to address a variety of issues, including climate

change, solid waste, pesticide risks, and to advance new environmental technologies and practices. These experiences have shown that voluntary approaches can be a strong complement to our regulatory system, and a tangible means for getting better environmental results.

### Approach:

We will work with states, tribes industry, public interest groups, and other stakeholders to:

- Evaluate ongoing pilots and programs that use incentives.
- Look for new opportunities to use incentives.
- Make changes in policies and regulations to remove barriers and promote stewardship.

For voluntary programs, we will study the experience gained over the past few years, to find out what kinds of voluntary programs work best and why. We will use this information to help identify new areas where a voluntary partnership approach could achieve significant environmental results, and how we might accomplish more through existing programs.

### Tasks:

1. We will partner with several states to further test incentives (such as expedited permitting, consolidated or streamlined reporting, increased permit flexibility).  
*Lead: Office of Policy and Reinvention*
2. We will co-sponsor a national conference in 1999 on how economic and information incentives can be used to promote environmental stewardship.  
*Lead: Office of Policy and Reinvention*
3. We will award competitive research grants to identify and evaluate incentive-based approaches and investigate the relationship between environmental stewardship and financial return and growth.  
*Lead: Office of Research and Development*

4. We will work to improve the accessibility and increase the potential of voluntary partnership programs:
  - First, we'll establish a central point of contact for basic information on EPA partnership programs to make it easier for current and potential new partners to discover the full range of programs available. (This will augment outreach efforts by individual programs).
  - Second, we will work with interested sectors to determine which programs have greatest value for their specific operations, how these programs might best be packaged to simplify use, and whether new features are needed to meet their needs.
  - Third, we'll explore additional areas where partnership programs might be created to achieve environmental improvements.
  - Fourth, we will publish annual results achieved by partnership programs to demonstrate environmental and economic benefits. We will also work with our partners to develop better performance measures, where needed. These measures will enable us to more thoroughly evaluate the effectiveness of these programs, and prepare a report on their collective contribution to achieving national environmental and public health protection goals.  
*Lead: Partnership Programs Coordinating Committee*
5. Working with industry and other stakeholders, we will explore incentives to encourage further toxicity testing (under the Agency's chemical right-to-know program), and to promote improved product stewardship based on the toxicity testing results.  
*Lead: Office of Prevention, Pesticides and Toxic Substances*
6. We will work with industry and other stakeholders to explore an environmental stewardship initiative that challenges U.S. companies to voluntarily meet U.S. environmental and public health standards at their facilities in other countries whose standards are less protective.  
*Lead: Office of Prevention, Pesticides and Toxic Substances*

**Action 2: Promote the use of environmental management systems.**

**Objective:**

We will encourage organizations to use EMSs that improve compliance, pollution prevention, and other measures of environmental performance. We'll continue evaluation efforts to learn more about which EMS elements and applications are most effective, and we'll determine how these systems might be used to strengthen environmental programs and policies.

**Background:**

An environmental management system applies standard business principles to the management of an organization's environmental responsibilities. This kind of system looks at environmental concerns in a more systematic way, and as a part of all business decisions and practices. An EMS does not determine the organization's legal obligations; rather, it is a sophisticated tool used by the organization to manage compliance and other environmental issues. A strong EMS does not just set rules for employees: it tracks performance, identifies and corrects problems, and tries to prevent the problems from recurring.

Many organizations are adopting EMSs as a management tool. We encourage the use of EMSs because they have the potential to improve compliance rates and environmental performance. In 1998, EPA issued a policy statement endorsing the use of EMSs that focus on improved environmental performance, including compliance and source reduction.

It is now time for EPA to take a more prominent role in encouraging organizations to use EMSs. Already, a number of our programs and regions have helped selected sectors, or organizations in particular geographic areas, to develop strong EMSs. We've also incorporated EMSs into a number of settlement agreements in enforcement cases. We need to look strategically at what else we can do to help promote EMSs.

At the same time, we still have much to learn about how effective different types of EMSs actually are in improving environmental performance, and about how they may affect our programs and policies. We are currently working in partnership with

a number of states (through the Multi-State Working Group) to develop a national database to help us build an understanding of EMSs and their effects. This work will be continued and expanded.

**Approach:**

Working with states, tribes, and other stakeholders, we will assess the real-world use of EMSs and look at their implications for environmental programs and policies. We will help selected sectors (especially smaller businesses) develop and test EMSs, and we'll promote EMSs in selected geographic areas. To do this, we will:

- Develop a stronger, more far-reaching assistance program.
- Develop additional tools that can help organizations integrate environmental planning with other business decisions.
- Continue and expand research on what kinds of EMSs are most effective, and how the growing use of EMSs may affect our programs and policies.

**Tasks:**

1. We will designate a single office to provide leadership on Agency EMS policy and planning.  
*Lead: Deputy Administrator, with advice from Reinvention Action Council*
2. We will promote the use of EMSs to address known compliance and performance problems. Within six months, we will prepare a strategy to increase EMS use in targeted sectors or geographic areas, and begin developing tools such as training, best practice manuals, mentoring programs, short-term and long-term measures of environmental performance, and incentives that encourage improved environmental performance.  
*Lead: Office of Policy and Reinvention*
3. We will evaluate the environmental and economic results of EMSs, building on and expanding current research efforts. (These results will form the basis of an evaluation report to be issued within 3 years).  
*Lead: Office of Policy and Reinvention*

4. We will look at other business decision-making tools and evaluate how well they improve environmental performance. We will also assess how these other tools may work with or enhance a firm's EMS.

*Lead: Office of Prevention, Pesticides and Toxic Substances*

### **Action 3: Develop a “performance track” to motivate and reward top environmental performance.**

#### **Objective:**

We will work with States, Tribes, industry, environmental, and other interest groups to define what it means to be a top environmental performer, and to identify appropriate building blocks for a new “performance track” that enhances the current regulatory system.

#### **Background:**

States and EPA have already started using incentives to promote top environmental performance (see Box 1, page 10). Project XL, the Environmental Leadership Program, and leadership programs in Oregon, Colorado, and other states are preliminary efforts to motivate top performers. In addition to these programs, a number of policy studies have called for creation of an “alternative track” or “performance track.”

There is broad support for a “performance track” that rewards top performers, but there are diverse ideas about how this approach should be designed and operated. Unresolved issues include:

- Finding the right incentives to motivate top performance, and identifying the changes that are needed in policy, regulations, or statutes to use incentives.
- Defining and measuring top environmental performance.
- Ensuring that companies and communities are accountable for performance, in part by publicly reporting on their performance to the public.

- Determining the appropriate role for government agencies and the appropriate allocation of government resources.

We are already learning from the past several years of experimentation, and we now need to agree on a next phase of activities to create a performance track. This track should include both meaningful incentives, and a way to account for results. Because this performance track concept is not fully defined, it is not without controversy. But we believe it holds strong promise for motivating and rewarding stewardship in companies that are willing to be leaders and achieve better environmental results.

**Approach:**

A process will be established so that diverse interests can work with the Agency in developing a performance track that promotes top performance and assures accountability for results. This collaborative process will assess what has been effective in previous pilot tests and programs, develop a framework for a performance track, and propose practical implementation steps.

**Tasks:**

1. We will convene a group of leaders from state and tribal environmental agencies, industry, environmental and other interest groups to evaluate options for a performance track and propose practical steps for demonstration and implementation. This will include:
  - Defining and measuring environmental excellence, for example by "benchmarking" the performance of 25 to 30 top performers identified by the group participants.  
*Lead: Office of Prevention, Pesticides and Toxic Substances*
  - Defining the characteristics of EMSs and accountability measures that will demonstrate top environmental performance.  
*Lead: Office of Policy and Reinvention*
  - Identifying the best incentives for motivating organizations to improve environmental performance.  
*Lead: Office of Policy and Reinvention*

2. We will work with two industry sectors to develop sector-specific performance standards that demonstrate a more comprehensive, system-based approach to environmental management. This will involve assessing industry trends and conditions, developing environmental performance goals, and designing EMSs to help individual facilities improve environmental performance.

*Lead: Office of Policy and Reinvention*

#### **Action 4: Support a network of public and private organizations that provide assistance on environmental compliance.**

##### **Objective:**

We will focus on becoming a “wholesaler” of compliance assistance tools and information. We’ll meet with compliance assistance providers to share our approach for developing materials that help businesses and communities comply with the law and prevent pollution, and we’ll ask them to help us set priorities to determine which materials are needed most. We’ll provide these materials, and help them develop training and peer mentoring programs.

##### **Background:**

Many regulated groups, especially small and mid-sized businesses, are wary of seeking help from EPA and other federal agencies. Because of this, we are not in the best position to offer direct compliance assistance. But, there are many organizations that are in a good position to help because they already have contact with a large number of regulated entities. Some examples are state and local governments; small business assistance programs and development centers; manufacturing extension partnerships; pollution prevention programs; universities; licensing agencies and issuers of building permits; and trade and professional associations. These organizations already have an infrastructure in place to deliver information and assistance, and businesses often turn to them.



## Approach:

We will bring together other organizations in the public and private sector that provide compliance assistance, and seek their ideas about what tools are still needed. We will seek their input on the best ways to get new compliance assistance tools delivered to them in a timely manner. In this way, we can help build an effective environmental assistance network with the ability to reach a much larger audience than EPA could ever reach on its own. Our role will be primarily to enable other providers to work more effectively, and to provide compliance assistance directly only in special circumstances (e.g. in cases where assistance networks may not sufficiently reach all affected parties). We will also work to encourage more collaboration and coordination among organizations that routinely provide assistance on business, environmental or other issues. This would be more efficient for small businesses and others seeking information, as well as for EPA and other organizations that provide it.

## Tasks

1. We will convene a national compliance assistance forum to share information with participants on recently developed compliance assistance materials, get stakeholder input in setting priorities for new compliance assistance materials, and exchange compliance assistance tools. We will also use the forum to help identify industry sectors that have special compliance assistance needs.  
*Lead: Office of Enforcement and Compliance Assurance*
2. We will also sponsor a national meeting of organizations that provide assistance to the regulated community. We hope to encourage simpler and more efficient “one-stop” shopping for assistance on a variety of inter-related issues, such as business management, technical process improvements, pollution prevention, and regulatory compliance.  
*Lead: Office of Prevention, Pesticides and Toxic Substances*
3. We will assess EPA's current suite of environmental assistance services for small businesses. We'll assess the value and accessibility of the many hotlines, clear-

inghouses, and other EPA support functions. Working with other public and private sector assistance providers, we'll use these findings to improve our assistance to small businesses.

*Lead: Office of Policy and Reinvention*

- 4. We will create a clearinghouse of compliance assistance materials and tools. This clearinghouse will include information from federal, state, tribal, and local governments and from private providers, such as trade associations.

*Lead: Office of Enforcement and Compliance Assurance*

- 5. We will distribute and market compliance assistance tools to organizations that are likely to have contact with regulated groups.

*Lead: All offices that prepare materials or tools to support regulatory action*

- 6. We will support mentoring programs that help businesses and other organizations share environmental management information and expertise with one another.

*Lead: Office of Policy and Reinvention, Office of Water, and Region 4*

**Action 5: Deliver compliance assistance information for new “economically significant” rules when and where it’s needed.**

**Objective:**

We will provide compliance assistance information, typically within 90 days of issuing an “economically significant” rule, so it is available before new requirements take effect<sup>1</sup>. We will continue to make general assistance widely available through the Internet, toll-free telephone lines, and other distribution channels. We'll also evaluate the need for additional compliance assistance centers as we maintain support for existing ones.

**Background:**

Clear, understandable regulations and compliance assistance tools improve a facility manager’s ability to comply, and they strengthen the public’s ability to effectively

participate in environmental and public health protection issues. Over the last several years, EPA has begun to write plain language regulations. We have also developed a variety of compliance assistance tools and mechanisms for delivering them. These include plain language guides, compliance assistance centers, hotlines, self-audit checklists, and special software. We have begun and will continue to evaluate these tools, with a special focus on how well they meet the needs of small business. Still, as we talked to our stakeholders about compliance, we heard that we need to do more. In particular, we need to integrate compliance assistance planning into the rulemaking process.

A more integrated approach should have several positive effects. Earlier consideration of compliance assistance issues during regulation development will allow us to develop more effective, understandable regulations designed for application in real-world situations. Providing more timely compliance assistance information will give the regulated community the time they need to understand regulatory obligations and to focus planning on how to comply through pollution prevention or other appropriate controls. Finally, the interaction between facilities and regulatory agencies, and public involvement in environmental decision-making will become more positive as all parties gain a clearer understanding about what is required.

### Approach:

Under the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA is required to prepare a compliance guide for new regulations that have a “significant impact on a substantial number of small entities<sup>2</sup>.” In the future, we’ll extend this type of service more broadly. Specifically, we will provide compliance assistance guides or self-audit checklists for economically significant rules that apply to companies or government facilities and that are not already covered by the SBREFA requirement. These materials will help regulated entities—in other words, companies or government facilities—comply with EPA rules that apply to them. (Rules that aren’t directly applicable to companies or government facilities may warrant different forms of guidance, such as state program guidance.)

Because guides and checklists must be tailored to each rule and to diverse audiences (e.g., small businesses versus large manufacturers), they will vary substantially in format and length. Where appropriate, they will include information about how to

comply through pollution prevention options. We will prepare these materials as soon as possible after issuing the rule, typically within 90 days so that requirements can be understood *well before* the actual compliance date. Longer time frames may be needed in some cases for stakeholder input on draft assistance materials, for highly complex rules or for special circumstances, but these extensions will be subject to the Deputy Administrator’s approval.

There may be cases in which EPA decides to produce a compliance guide for a rule that does not meet the economically significant threshold rather than for a rule that does because it would be more beneficial overall, considering factors such as the needs of the regulated community and the potential benefit to public health and the environment. These “substitutions” will be made as part of an annual compliance assistance planning process. In addition, EPA will produce compliance materials for other rules that do not meet the economically significant threshold, within budget limitations.

EPA’s media offices will integrate compliance assistance planning into rule development, with active assistance and participation from our enforcement and compliance assurance staff at Headquarters and in the regions. We’ll also seek input from State program staff, the regulated community and other stakeholders, as appropriate. As part of this process, we may identify and develop other materials to supplement guides and checklists.

### Tasks:

1. We will develop compliance assistance guides and/or self-audit checklists for economically significant rules that apply to companies and/or government facilities (or rules that were “substituted” because of greater benefit), typically within 90 days of issuance. Extensions beyond this time frame will be subject to approval by the Deputy Administrator. EPA also will produce compliance materials for additional rules that do not meet the economically significant threshold, within budget limitations.

*Lead: EPA National program office that prepares regulation, with assistance from enforcement and compliance assurance program.*

2. We will develop an annual compliance assistance plan, in consultation with State, Tribal, and other compliance assistance providers, to ensure that compliance assistance resources are focused on areas where they are most needed. Based on their input, we will consider developing compliance assistance tools for other new rules that do not meet the economically significant threshold or for existing rules known to have compliance problems.

*Lead: Office of Enforcement and Compliance Assurance*

3. We will field test certain compliance assistance tools before issuing them. For one or two rules, the Agency will also develop special software to guide facility operators through regulations and provide answers on applicability, deadlines, and what must be done to comply.

*Lead: EPA National program office that prepares regulation, with assistance from enforcement and compliance assurance staff*

4. We will field test certain draft regulations prior to promulgation. This will be done through simulated trial application of a draft rule with one or more regulated entities, with opportunity for public involvement.

*Lead: EPA National program office that prepares regulation*

## **Action 6: Combine compliance assistance, incentives, monitoring, and enforcement in order to implement environmental laws in a more strategic manner.**

### **Objective:**

To make better use of limited resources, we will design new strategies that incorporate a range of options to address major compliance problems.

### **Background:**

During the last several years EPA and States have experimented with integrated compliance and enforcement strategies. These strategies usually include some or all of the following tools: compliance assistance, compliance incentives (such as penalty

relief for firms that conduct self-audits, disclose violations, and quickly correct problems), monitoring, and targeted enforcement actions. Several examples of how these tools were strategically applied are described below:

- Steel mills: EPA Region 5 provided steel mini-mills with a 6-month period to self-audit, disclose, and correct violations in accordance with the Audit Policy or Small Business Policy; offered outreach and technical assistance; and followed up with inspections, and enforcement as appropriate, at facilities that did not audit and disclose.
- Chemical companies: This national strategy gave organic chemical manufacturers compliance assistance, including auditing protocols, and an opportunity to audit, disclose, and correct violations. It also included compliance monitoring and appropriate enforcement for non-participating companies.
- Universities laboratories: By combining targeted enforcement actions regarding hazardous waste violations with customized assistance opportunities, EPA's New England region was able to address RCRA compliance and other performance problems at laboratories.

These and other experiences have shown that strategic combination of enforcement with other environmental management tools can be effective for addressing environmental and compliance problems. During focus groups, our stakeholders voiced support for this approach.

### Approach:

As part of future planning processes, we will consult with states, tribes and other stakeholders to identify new opportunities for strategically combining compliance assistance, incentives, monitoring, and enforcement. Through this approach, we will tailor actions to the particular compliance issue and/or sector involved. While the combinations and sequences in these strategies may vary, we would likely start with compliance assistance first. We would then give incentives, such as extended compliance periods or penalty relief for auditing and correcting problems. Monitoring would come next, followed by enforcement, where necessary.

### Task:

1. We will talk to states, tribes and other stakeholders to identify the priorities where combined enforcement strategies are appropriate. We will then develop the appropriate strategy for each priority area and begin implementation.

*Lead: Office of Enforcement and Compliance Assistance and EPA Regions*

## Action 7: Develop more flexible air permitting policies for protecting the environment.

### Objective:

Based on our experiences in pilot projects, we will identify those approaches that increase permitting flexibility while providing equal or better levels of environmental and public health protection, provide incentives for pollution prevention, and ensure public participation in permitting decisions.

### Background:

For the past 6 years, we have looked for ways to provide greater flexibility under the air permit program without sacrificing environmental protection. We have done this in connection with ongoing rule development, and through a number of experimental pilot permits in Project XL and the "Pollution Prevention in Permitting Project" (P4).

### Approach:

Because of our pilot programs, we have enough experience to identify approaches that can be taken beyond the pilot stage and used more broadly. Currently, permits are issued through a decentralized system of state and regional permit writers. We will build an extensive support system to disseminate information on new approaches among this network. We will do this through EPA staff, a variety of publicly available information sources, and training programs for federal and state permit writers.

### Tasks:

1. We will identify approaches that provide greater flexibility in the New Source Review and Title V permitting programs, without sacrificing environmental results or weakening the role of the public in permit decisions.
2. We will publicize those new approaches so that permit writers at EPA and other regulatory agencies understand and know how to use them, and so that permit applicants and holders become aware of the approaches and their benefits.
3. We will identify and work with selected sectors for which the new approaches offer the greatest benefits.

*Lead: Office of Air and Radiation*

### **Action 8: Speed up review and issuance of NPDES (water discharge) permits.**

#### **Objective:**

We will streamline NPDES permitting by providing training to improve understanding of the NPDES permitting process, and by encouraging applicants to submit draft permit limits or conditions that can expedite regulatory review and approval. We will also encourage more public involvement in permitting actions.

#### **Background:**

The National Pollutant Discharge Elimination System (NPDES) permitting program controls the discharge of pollutants from industrial and municipal sources into U.S. waters. Approximately 71,000 facilities have been issued individual NPDES permits, primarily by their State environmental agency. Under the Clean Water Act, permits are issued for a 5 year period. Permit holders must reapply at least 180 days before the day their permit expires. However, if the permitting authority does not send a new permit before the expiration date, the operations can be continued under the existing permit conditions.



The number of facilities requiring permits has grown substantially since the program's inception in 1972. In addition, the complexity of developing permits has increased due to new technology-based requirements (e.g., new effluent limitations guidelines), the adoption of comprehensive water quality standards by States, and the development and incorporation of total maximum daily loads (TMDL). For these reasons, the process for permit issuance has become increasingly costly and time-consuming for EPA and the States who issue permits and for the facilities that need them to operate. The result is a "backlog" of expired (administratively extended) NPDES permits. The Agency estimates that as many as 35 percent of individual permits are currently expired.

### Approach:

We will work with an outside organization and several select states to improve NPDES permitting for the regulated community and the public. As a first step, we will work with them to modify NPDES training materials (originally developed for permit writers at regulatory agencies) for permit holders (or applicants), their environmental consultants, and interested citizens. Using these materials, we will then develop a certification course for NPDES permit preparation. The certified individuals will be trained to prepare complete permit applications and to prepare draft permit limits or conditions that could be submitted to expedite regulatory review and approval. Members of environmental groups, and other citizens interested in the NPDES permit development process will also be encouraged to attend the training. Based on the results, EPA will decide whether training and/or the option to submit preliminary permit information should be offered nationally.

### Task:

1. Working with a national organization and two or three states, we will develop a training program to improve understanding and execution of NPDES permitting. Together, we will:
  - Modify NPDES training materials (originally developed for permit writers at regulatory agencies) for permit holders, their environmental consultants, and interested citizens.

- Design, publicize and offer training courses that improve understanding of NPDES permitting and provide professional certification for assisting with NPDES permit applications.
- 2. In the pilot states, we will encourage permit applicants to use certified professionals to submit draft permit limits or conditions that can be used to expedite permitting decisions.
- 3. After a 3 year demonstration period, we will evaluate the experience and make recommendations on whether this permitting approach should be implemented nationally.

*Lead: Office of Water*

## **Action 9: Build leadership capacity in communities to participate in local environmental problem-solving.**

### **Objective:**

We will help communities make decisions about issues that improve public health and their local environment by developing environmental management tools, offering technical assistance, and providing facilitation for dialogue on environmental issues. We'll also include community representatives in Agency decisions about programs or policies that directly affect them.

### **Background:**

Often, environmental problems are best addressed at the state, tribal, or local level, where unique social, economic, and cultural priorities can be better recognized and considered in the decision-making process. Many individuals also want the opportunity to participate in environmental decisions that affect them. The Agency has made significant progress in developing tools and providing assistance to support community involvement. Our overall strategy has been to work in partnership with communities, states, and tribes on collaborative, flexible approaches to environmental protection.

## Approach:

Because there are already a wide variety of Agency activities related to communities, including many recent initiatives, we've chosen to focus on tasks that will increase technical assistance to communities and provide additional support for community involvement in environmental decisions. We hope that these activities will

- Create more public participation in EPA activities that will affect them;
- Foster constructive dialogues among public and private stakeholders and local, state, and tribal governments to address environmental and public health concerns; and
- Encourage all stakeholders to work cooperatively together to set community priorities for environmental action.

## Tasks:

### 1. Increase technical assistance to communities

As part of a national program on hazardous material research, we support five regional university consortiums in carrying out basic and applied research, technology transfer and training. These centers provide technical outreach services for communities in their area, with a special emphasis on providing technical assistance for brownfields cleanup and redevelopment.

As part of the next solicitation to establish new centers, we will place greater emphasis on providing technical support activities, including outreach to communities. These centers will:

- Provide high-quality technical assistance materials for communities and other stakeholders on challenging redevelopment issues.
- Conduct forums for researchers, vendors, regulatory agencies, developers, and community leaders to discuss potential applications and benefits of cleaning up and redeveloping brownfield sites.

*Lead: Office of Research and Development*

## 2. Establish “Good Neighbor Groups” in each EPA region

Good Neighbor Groups are voluntary groups facilitated by EPA that bring together industry; state, tribal and local government; and community representatives in economically disadvantaged areas with major industrial sources. These groups meet regularly for discussions and have often led to agreements about new efforts to address pollution issues. EPA's Region 5 office has sponsored several “Good Neighbor Groups” with key industries in a South Chicago community; the Agency is now ready to expand this program more broadly.

- Our Region 5 staff will work with other regions to develop a *Good Neighbor Group* guidance document to be used in other parts of the country.

*Lead: EPA Region 5*

- Each EPA Region will establish two “Good Neighbor Groups” over the next 2 years to facilitate communication among community groups, industry, and state, tribal, and local governments.

*Lead: EPA Regions*

## 3. Improve access to conflict resolution support

Early and meaningful stakeholder participation in Agency decision-making can increase satisfaction with results and help reduce or avoid conflicts. While we've already adopted a number of regulatory changes and new policies to increase meaningful participation, we need to do more to routinely involve stakeholders in all Agency programs. When conflicts do arise, we need to turn to non-adversarial, collaborative approaches for dealing with them. To do this, we will improve the ways we involve stakeholders in discussions, and we will improve the ways we prevent and resolve disputes.

- We will develop a user-friendly toolkit that explains dispute resolution processes and identifies supporting resources that are available for community members and other stakeholders.
- We will develop an Agency policy on alternative dispute resolution. We will establish a permanent office of dispute resolution to oversee and coordinate

alternative dispute resolution activities. The office will assist communities, as well as EPA programs and regions, in preventing and resolving dispute issues.

*Lead: Office of the Administrator*

#### 4. Assist communities through Supplemental Environmental Projects

When settling environmental enforcement cases, we require alleged violators to comply with Federal environmental laws and regulations and to pay a civil penalty. Sometimes, we may include Supplemental Environmental Projects (SEPs) as part of the settlement. These projects provide environmental improvements or other forms of compensation to the community in which the violation occurred. We encourage community involvement in the development of these projects, and we've developed a brochure to explain the policy to communities. To foster more use of these projects, we will:

- Develop a guidance document for companies that explains how to involve communities in selecting and developing SEP proposals.

*Lead: Office of Enforcement and Compliance Assurance*

#### 5. Evaluate and update EPA's public participation requirements

We will assess how well our regulations and policies ensure public participation in decision-making. We will report on what we find and develop an action plan to upgrade requirements and fill gaps.

*Lead: Office of Policy and Reinvention*

### **Action 10: Provide “smart growth” support to states, tribes, and communities to help them find local solutions to livability issues.**

#### **Objective:**

Because community development patterns have a great impact on environmental conditions and overall quality of life, we will support and encourage smart growth decisions by individuals, communities, businesses, and state, tribal and local governments.

## Background:

The development patterns in the United States over the last half of this century have resulted in voracious land consumption and the loss of farmland, open space, and wildlife habitat. Some unintended consequences of these development patterns include growing traffic congestion and air pollution, diminished access to nature and open space, and more contaminated stormwater runoff. These changes have driven communities across the country to take a new look at development patterns and use innovative growth strategies. In search of smarter growth, communities are considering policies that will deliver more compact, community-oriented development centered around mass transit hubs, with walkable neighborhoods, convenient access to shopping and services, open space and access to nature.

## Approach:

Our role in smart growth is not to provide regulatory directives or mandates, but to support others' smart growth efforts. The positive impacts of smart growth directly support EPA's goals of protecting human health and the environment. To encourage this type of development, we will:

- Ensure that EPA regulations do not present barriers to smart growth efforts.
- Provide guidance or policy on how smart growth strategies can be used to meet regulatory requirements.
- Support and promote voluntary activities that encourage smart growth.
- Offer tools to help states, tribes, and communities analyze the environmental benefits associated with smart growth decisions.

Our approach involves advancing smart growth through EPA National programs, providing information and tools that link environmental, economic, and social issues, and promoting financial reforms that encourage more livable communities.

## Tasks:

### 1. Assist in establishing commuter choice programs across the country

“Commuter Choice” is a voluntary program to improve air quality and reduce traffic congestion by educating employers and employees about tax incentives for public transit, van pooling and parking benefits. We are partnering with members of the business community, environmental interests, and state and local governments to extend this program throughout the country.

- We will provide commuter choice training workshops for business and other interested parties; support new and existing commuter choice pilot programs; develop a model commuter choice program for federal agencies; and develop Internet-accessible commuter choice training and implementation materials for individual employees, employers, and metropolitan areas.

*Lead: Office of Air and Radiation*

### 2. Safely return Superfund sites to productive use

The Superfund Site Recycling Initiative is a nationally coordinated effort to return Superfund sites to productive use. More than 100 Superfund sites, many thought to be unusable, have already been recycled without an organized effort on the Agency’s part. By focusing more on recycling Superfund sites, we can increase the number of sites in productive use. We will do this by involving states, tribes, and local governments, potentially responsible parties (PRPs) and community organizations in determining the reasonably anticipated future uses of sites and in designing cleanups that are consistent with those uses.

- We will select 50 pilot sites for Superfund recycling. For each site, we will provide up to \$100,000 for a reuse assessment and for public outreach activities to determine future uses of the site.
- We will evaluate policies and guidelines to determine where refinements can be made to facilitate site reuse.

- We will work with all regions and with real estate developers and associations to share information about reuse successes, how to replicate those successes, and how to assess the reuse potential of sites.

*Lead: Office of Solid Waste and Emergency Response*

### 3. Incorporate smart growth principles into the water pollution program

The Clean Water Act requires EPA to identify sources of pollution within a watershed and to allocate pollutant loadings among those sources in a way that assures water quality standards are met. Collectively, these allocations represent the watershed's total maximum daily load, or TMDL. By specifying how much pollutant loadings need to be reduced for the waterbody to attain water quality standards, TMDLs can play an important role in preventing water pollution problems and creating more sustainable communities.

- We will propose changes to the TMDL regulations and guidance. To encourage smart growth principles, we will include incentives for redeveloping urban lands and encouraging the protection of critical habitat, agricultural lands, and open space. (For example, in allocating the pollutant load reductions needed to meet water quality standards, smaller loadings would be allowed in limited growth zones compared to designated growth zones).

*Lead: Office of Water*

### 4. Provide tools for States, Tribes, and communities to evaluate smart growth decisions

Communities around the country are supporting new transit, land conservation, and open space preservation. Because of the direct link between development patterns and pollution problems, we will work with states and other stakeholders to encourage local efforts that will reduce or prevent pollution.

- We will provide information and modeling tools to help communities evaluate the impacts of different development choices. The tools will include indicators for analyzing environmental conditions; tracking the performance of transportation investments; and predicting the impacts of development choices on air quality, water quality, automobile use, Brownfields, and open space.

*Lead: Office of Policy and Reinvention*



5. Promote financial reforms that encourage more livable communities

A key barrier to creating more livable communities is financing. Current financing trends favor low density, single use, automobile-dependent development on the edges of communities. EPA will work with financial institutions that are beginning to develop reforms in financing that encourage more livable communities.

- We will work with Fannie Mae, BankAmerica, the development community, federal agencies, states and other stakeholders to implement innovative financing options that will prevent or reduce pollution.

*Lead: Office of Policy and Reinvention*

<sup>1</sup>Under Executive Order 12866, “economically significant” rules are generally those that have an economic impact of \$100 million or more.

<sup>2</sup>Under SBREFA, the definition of small entity varies by industry. Some definitions are based on annual revenues, others on the number of employees. Where not specified for a particular industry, the definition is generally a business with 500 or fewer employees.